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April 5, 2007

VIA FACSIMILE

To: Supervisory Examiner: Yogendra Gupta Facsimile No.: 571-273-8300
 Group Art Unit: 1722
 U.S.P.T.O.

From: Scott M. Tulino, Esq. Facsimile No.: 703-761-2375 or 76

Re: Petition to Withdraw Finality of Office Action dated April 2, 2007
 U.S. Patent Application Serial No.: 10/662,809
 Our Ref. No.: NGB.292

Dear Supervisory Examiner Gupta:

Attached herewith is a Petition to Withdraw Finality of the Office Action dated April 2, 2007.

Thank you in advance for your kind and timely consideration on this case.

Very truly yours,


 Scott M. Tulino, Esq.
 Registration No. 48,317

Sean M. McGinn, Esq.
 Registration No. 34,386

SMT:SMM
 Attachment
 Number of pages (including this cover sheet): 3

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Seiji Nagai et al.

Serial No.: 10/662,809

Group Art Unit: 1722

Filed: September 16, 2003

Examiner: Rao, G. Nagesh

For: METHOD FOR PRODUCING GROUP III NITRIDE COMPOUND SEMICONDUCTOR
SUBSTRATEHonorable Commissioner of Patents
Alexandria, VA 22313-1450PETITION UNDER 37 C.F.R. §1.181 TO WITHDRAW FINALITY OF REJECTION
AS PREMATURE

Sir:

Applicants respectfully petition under 37 C.F.R. §1.181 that the finality of the Examiner's rejection be withdrawn as premature under the guidelines of MPEP §706.07(a). This guideline states: "...second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims..." (Emphasis by Applicant).

In the Final Office Action dated April 2, 2007, the Examiner erroneously alleges that "Applicant's amendment necessitated the new ground(s) of rejection presented in this Office Action" (see Office Action dated April 2, 2007 at page 8). The Examiner, however, is clearly incorrect.

That is, Applicants respectfully submit that the Examiner's new ground of rejection was not necessitated by applicant's amendment of the claims. Specifically, in Applicant's previous amendment (filed on March 13, 2007) the claims were not amended.

In the Amendment filed on March 13, 2007, Applicants merely added new claims 19-20. However, previously pending claims 1, 3, 4, 6-15, 17 and 18 were not amended.

In the present Office Action, the Examiner has provided new grounds of rejection for all of the pending claims, including non-amended claims 1, 3, 4, 6-15, 17 and 18.

Serial No.: 11/168,934

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Attorney Docket No.: NEC04107US

Therefore, Applicants submit that the Examiner's new search and subsequent new grounds of rejection were clearly not based on Applicant's amendment of the claims, since claims 1, 3, 4, 6-15, 17 and 18 were not amended.

Therefore, because claims 1, 3, 4, 6-15, 17 and 18 were not amended, and the Examiner has applied a new ground of rejection to these claims, the finality of the Examiner's rejection is premature.

Accordingly, Applicants petition for the withdrawal of the finality of the Office Action dated April 2, 2007.

Respectfully Submitted,

Date: April 15, 2007

Scott M. Tulino, Esq.
Registration No. 48,317Sean M. McGinn, Esq.
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FACSIMILE TRANSMISSION

I hereby certify that I am filing this paper via facsimile, to Group Art Unit 1722, at (571) 273-8300, on April 5, 2007.

Respectfully Submitted,

Date: April 15, 2007

Scott M. Tulino, Esq.
Registration No. 48,317Sean M. McGinn, Esq.
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